

provide adequate support in the disclosure for how the valve functions, specifically the sequence of events that occur when the activation button is depressed to fill the chamber up with the oxygen and nitrogen and how the seat member and ball are displaced during the dispensing of the oxygen and nitrogen.

Examiner further argues that the disclosure fails to provide adequate support as to how the hard metal seat prevents a sealing seat from being achieved, and that the valve arm, threaded shank, seat, ball and spring, and associated elements are floating in the valve housing.

In addition, examiner respectfully rejected Claims 18-35 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Such rejection by examiner pertains to substantially similar arguments made in regard to the aforementioned objection under 37 C.F.R. 1.71.

“Any analysis of whether a particular claim is supported by the disclosure in an application requires a determination of whether that disclosure, when filed, contained sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and use the claimed invention. The standard for determining whether the specification meets the enablement requirement was cast in the Supreme Court decision of *Mineral Separation v. Hyde*, 242 U.S. 261, 270 (1916) which postured the question: is the experimentation needed to practice the invention undue or unreasonable?” MPEP 2164.01. “That standard is still the one to be applied.” *In re Wands*, 858 F.2d 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988).

“Accordingly, even though the statute does not use the term ‘undue experimentation,’ it has been interpreted to require that the claimed invention be enabled so that any person skilled in the art can make and use the invention without undue experimentation.” *In re Wands*, 858 F.2d at 737, 8 USPQ2d at 1404 (Fed. Cir. 1988). See also *United States v. Teletronics, Inc.*, 857 F.2d 778, 785, 8 USPQ2d 1217, 1223 (Fed. Cir. 1988) (“The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation.”). A patent need not teach, and preferably omits, what is well known in the art. *In re Buchner*, 929 F.2d 660, 661, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991); *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1384, 231 USPQ 81, 94 (Fed. Cir. 1986), *cert. denied*, 480 U.S. 947 (1987); and *Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1463, 221 USPQ 481, 489 (Fed. Cir. 1984).

Regarding examiner’s objection to the specification and rejection of Claim 18 as failing to provide adequate support for how the valve functions, applicant respectfully disagrees with examiner’s contention. The specification, specifically pages 8-11, contains sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and use the portable, multipurpose, air dispensing apparatus.

Further, regarding inadequate support in the disclosure as to how the hard metal seat prevents a sealing seat from being achieved, the following seeks to remove any ambiguity concerning this issue.

To clarify, considering initially that “a ball 56 engages a hard metal seat 58 . . .” p. 9,

lines 7-8 of the specification, the ball 56, as illustrated in FIG. 11, is shown to be a spherical body and as such, upon engagement with a *hard* surface creates a tangent or a meeting of a curved surface in a single point, thereby preventing “sealable engagement” between the two, or more specifically between the ball 56 and seat 58.

In contrast, a ball engaging a *soft* seat may facilitate sealable engagement. The soft seat would conform in an impinging manner to a substantial portion of the ball’s external circumferential surface, thereby creating sealable engagement between the two.

Regarding the appearance that the valve arm, threaded shank, seat, ball and spring in FIG. 11 are floating in the valve housing, FIG. 11 has been amended so as to properly include hatching which was previously unintentionally omitted, thus effectively providing structural support for such elements within the valve housing and in conjunction with the specification provides further support that (“...one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation.”). *In re Buchner*, 929 F.2d 660, 661, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991).

Moreover, the above arguments are bolstered by the enclosed affidavit declaring FIGS. 1-6 and 10-11 in conjunction with the specification enable a person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the claimed invention.

Therefore, in view of foregoing clarifications, the applicant submits that allowance of the present application and all remaining claims is in order and is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. Jeff Martin".

P. Jeff Martin, Esq.
Registration No. 47,773

The Law Offices of John D. Gugliotta
202 Delaware Building
137 South Main Street
Akron, OH 44308
(330) 253-5678
Facsimile (330) 253-6658

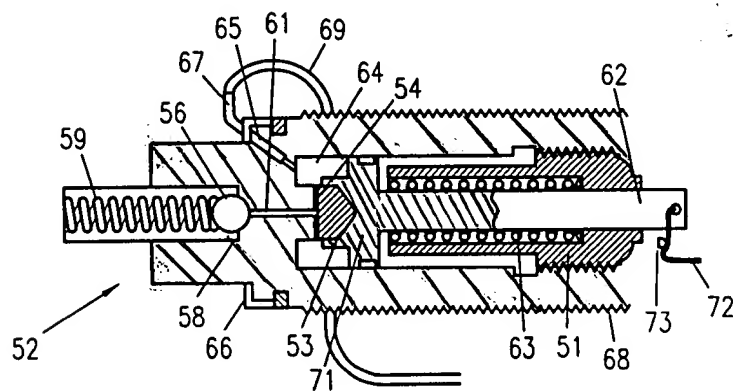


Figure 11